

**REMARKS**

Claims 1-40 are currently pending in the subject application and are presently under consideration. Claims 1-40 have been amended as shown on pages 2-7 of the Reply.

Favorable reconsideration of the subject patent application is respectfully requested in view of the comments and amendments herein.

**I. Rejection of Claims 1-40 Under 35 U.S.C. §101**

Claims 1-40 are rejected under 35 U.S.C. §101 because the claimed invention is directed to non-statutory subject matter. It is respectfully submitted that this rejection should be withdrawn for at least the following reason. Independent claims 1 (and claims which depend there from), as amended, contains subject matter that structurally and functionally interrelates functional descriptive material in computer-readable media and thus are directed to statutory subject matter. Accordingly, withdrawal of this rejection is requested.

**II. Rejection of Claims 1-40 Under 35 U.S.C §112**

Claims 1-40 are rejected under 35 U.S.C §112, first paragraph, due to minor informalities pointed out by the Examiner. Withdrawal of the rejection is requested for at least the following reasons. Claims 1-40 has been amended herein to cure the minor informalities. Accordingly, withdrawal of this rejection is requested.

**III. Rejection of Claims 4, 9, 10, 12, 13, 15-17, 20-22, 26 and 38 Under 35 U.S.C §112**

Claims 4, 9, 10, 12, 13, 15-17, 20-22, 26 and 38 are rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Withdrawal of the rejection is requested for at least the following reasons. Claims 4, 9, 10, 12, 13, 15-17, 20-22, 26 and 38 have been amended herein to cure the minor informalities. Accordingly, withdrawal of this rejection is requested

**IV. Rejection of Claims 1-18, 22-35 and 40 Under 35 U.S.C. §103(a)**

Claims 1-18, 22-35 and 40, as interpreted, are rejected under 35 U.S.C. §103(a) as being unpatentable over VanErlach ( US PG-PUB 20040204063) in view of Gellman 9US PG-PUB

2002/0035536). Withdrawal of the rejection is requested for at least the following reasons. VanEriach and Gellman fail to disclose or suggest each and every element of the claimed subject matter.

Applicant's claimed invention relates to a secure m-commerce system and device. In particular, the claimed invention provides for global framework for mobile commerce that provides data input to receive purchase information, location aware transactions, real-time bidding for items on a personal shopping list, and seamless connectivity with an on-line agent while maintaining privacy in the commerce transaction. To this end, independent claim 1, in part, recites *a coordination component that receives a shopping list transmitted by the data input component and presents the article of commerce from the shopping list to a vendor for a bid and has the article in stock, the coordination component receives the bid for transacting the article of commerce in real-time the data input component provides an alert when it is within physical proximity of the vendor that is presented the bid; a location awareness component that tracks the location of the data input component, the vendor presented with the bid is notified when the data input component is within physical proximity of the vendor.* VanEriach and Gellman fail to disclose or suggest such novel aspects of the subject claims.

VanEriach relates to a plurality of enhanced telecommunication services. Specifically, VanEriach discloses methods of determining location-based product price and availability using a wireless device, vital signs and location monitoring and creating and maintaining an event and future markets. At the cited portions, VanEriach discloses a subscriber visiting a hosted facility enabled to create a securities market, wherein the securities represent outcome of events such as sales of specific entertainment products. The securities are traded like a stock, with buyers and sellers bidding a value for the securities. Thus, the cited reference relates to predicting and appropriately adjusting future prices of media, such as compact discs, books, games, *etc.* based on user feedback. However, VanEriach is silent regarding *a coordination component that receives a shopping list transmitted by the data input component and presents the article of commerce from the shopping list to a vendor for a bid.* Rather, a subscriber visits the hosted facility and bids for *articles that are provided on the bidding site.* In contrast, the claimed invention provides for a shopping list prepared by a user and transmitted to a coordination component, the articles in the shopping list are presented to vendors to submit a bid. Further, VanEriach is silent regarding *the data input component provides an alert when it is within*

*physical proximity of the vendor that is presented the bid and has the article in stock; a location awareness component that tracks the location of the data input component the vendor presented with the bid is notified when the data input component is within physical proximity of the vendor.* Rather, a vendor is notified when any wireless device is in proximity to the vendor. In contrast, the claimed invention provides for notifying a vendor who bids and has the article in stock, when a user who submits the article for bidding is in proximity to the vendor. By alerting a user of the proximity to the vendor who submits a bid for an article of commerce, the system of applicants' claimed invention, provides the user with an opportunity to visit the vendor and make the purchase. By informing the vendor that the user is in proximity to the vendor, provides the vendor with an opportunity to provide a lower bid or additional incentives to the user to make a purchase.

VanEriach fails to disclose or anticipate such novel features recited by independent claim 1. Gellman relate to fails to make-up for the aforementioned deficiency.

Claim 32 further recites *the data input component notifies a user that the article of commerce is present in the store.* At the cited portions, VanEriach discloses a device reading a product identifying code, transmitting the code to a local or remote server for available digital samples, and presenting the digital sample on the device. In contrast, the claimed invention provides for *notifying the user that the article is present in the store.* Thus, VanEriach does not disclose the aforementioned features recited by claim 32.

Claim 17 recites providing *secure communication using at least one of radio frequency identification (RFID) data or an article-of-commerce dataform.* VanEriach never considers secure communication utilizing RFID or secure communication utilizing an article-of-commerce dataform, but rather relates only to item identification using RFID.

Claim 29 recites *the payment component utilizes electronic article surveillance (EAS) technology with bi-stable and resettable EAS data in an RFID tag.* At the cited portions, VanEriach discloses serving product samples after reading an RFID, but nowhere does it consider the implementation of a *payment component* that utilizes *EAS technology with bi-stable and resettable EAS data in an RFID tag*, and hence is silent regarding the features recited by claim 29.

Based on at least the foregoing, VanEriach and Gellman fails to disclose or suggest each and every element of the claimed subject matter as recited in independent claim 1 (and claims which depend there from). Therefore, it is requested that this rejection should be withdrawn.

**V. Rejection of Claims 19- 21 Under 35 U.S.C. §103(a)**

Claims 19-21 are rejected under 35 U.S.C. §103(a) as being unpatentable over VanErlach in view of Gellman and further in view of Freund (US PG-PUB 20030187787). Withdrawal of the rejection is requested for at least the following reasons. Freund does not make up for the aforementioned deficiencies of VanEriach and Gellman with respect to independent claim 1. Claims 19-21 depend from claim 1, and are believed allowable for at least the same reasons claim 1 is patentably distinct from the cited art. Accordingly, withdrawal of this rejection is requested.

**VI. Rejection of Claims 36-37 Under 35 U.S.C. §103(a)**

Claims 36-37 are rejected under 35 U.S.C. §103(a) as being unpatentable over VanErlach in view of Gellman and further in view of Edgett et al. (US PG-PUB 20040034771). It is respectfully submitted that this rejection should be withdrawn for at least the following reasons. VanErlach, Gellman, and Edgett *et al.*, individually or in combination, do not disclose or suggest each and every element set forth in the subject claim. At page 13 of the Office Action, the Examiner concedes that VanErlach does not disclose the feature of the data input component transmits a unique password to a tag of the article of commerce to facilitate payment for that article of commerce. The Examiner cites Edgett *et al.* to cure the deficiencies. At the cited portions, Edgett *et al.* discloses an authentication process utilizing a public key and a private key. A dialer associated with the network access device tags or identifies an encryption key used in an encryption process to encrypt a password, the tag is utilized to retrieve a private key associated with the tag. Nowhere does Edgett *et al.* disclose *the data input component transmits a unique password to a tag of the article of commerce to facilitate payment for that article of commerce*. Rather, a dialer tags an encryption key used to encrypt a password, the password is utilized in an authentication process. Claim 37 further recites *the tag is an RFID tag that compares the unique password with a password of the RFID tag*. In contrast, the claimed invention allows a user to purchase an identified article by transmitting a unique password from the device to the

RFID tag of the article. Thus, Edgett *et al.* does not make up for the aforementioned deficiencies of VanErlach and Gellman with respect to independent claims 36 and 37. Therefore, the claimed invention as recited in claims 36-37 is not obvious over the combination of VanErlach, Gellman, and Edgett *et al.* Thus, it is respectfully submitted that this rejection be withdrawn.

**VII. Rejection of Claims 38 Under 35 U.S.C. §103(a)**

Claim 38 is rejected under 35 U.S.C. §103(a) as being unpatentable over VanErlach in view of Gellman and further in view of Grunes *et al.* (US PG-PUB 2002/0113707). It is respectfully submitted that this rejection should be withdrawn for at least the following reasons. VanErlach, Gellman, and Grunes *et al.*, individually or in combination, do not disclose or suggest each and every element set forth in the subject claim. In particular, Grunes *et al.* does not make up for the aforementioned deficiencies of VanErlach and Gellman with respect to independent claim 1 (which claim 38 depends there from). Therefore, the claimed invention as recited in claims 38 is not obvious over the combination of VanErlach, Gellman, and Grunes *et al.* Thus, it is respectfully submitted that this rejection be withdrawn.

**VIII. Rejection of Claims 39 Under 35 U.S.C. §103(a)**

Claim 39 is rejected under 35 U.S.C. §103(a) as being unpatentable over VanErlach in view of Gellman and further in view of Hoffberg (US 6791472). Withdrawal of this rejection is requested for at least the following reasons. Claim 39 depends from independent claim 1. As mentioned *supra*, VanErlach and Gellman do not disclose or suggest every limitation set forth in the subject independent claim. Hoffberg fails to cure the aforementioned deficiencies. Therefore, this rejection should be withdrawn.

**CONCLUSION**

The present application is believed to be in condition for allowance in view of the above comments and amendments. A prompt action to such end is earnestly solicited.

In the event any fees are due in connection with this document, the Commissioner is authorized to charge those fees to Deposit Account No. 50-1063 [SYMBP152US].

Should the Examiner believe a telephone interview would be helpful to expedite favorable prosecution, the Examiner is invited to contact applicant's undersigned representative at the telephone number below.

Respectfully submitted,

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